

NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR 41.37(c)

(1) The brief does not contain a statement of the status of all the claims, e.g., rejected, allowed or confirmed, withdrawn, objected to, or canceled, and identification of the claims being appealed as required by 37 CFR 41.37(c)(1)(iii). The Status of Claims section does not contain an identification of the claims being appealed. Note that a statement as to which claims stand rejected is not the same thing. It is common to appeal only some of the claims rejected and consequently applicant is required to state, **in the Status of Claims section**, which claims are being appealed (see 37 CFR 41.37 (c),(1)(iii) as listed below).

(iii) **Status of claims.** A statement of the status of all the claims in the proceeding (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled) and **an identification of those claims that are being appealed.**

Applicant argues that the brief already contains a statement of the claims involved in the appeal. In response, note that the requirement is that the Status of Claims section include an identification of the claims that are being appealed and this has not been complied with.

(2) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters (see 37 CFR 41.37 (c),(1)(v) as listed below).

(v) **Summary of claimed subject matter.** **A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the**

specification by page and line number, and to the drawing, if any, by reference characters.

For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Applicant's Summary of Claimed Subject Matter meets the requirements of section (v) for claim 1 only and then makes a general statement that the other independent claims have analogous structure or similar structure to what is claimed in claim 1. Such general reference does not meet the requirements of section (v) for independent claims 2-3, 5, 7, 26-28, 30, and 32. A concise explanation must be provided **for each independent claim involved** in the brief as required by section (v).

Applicant argues that there is no requirement that applicant argue each independent claim separately. In response, this is not being required. In fact, the item (2) deficiency has nothing to do with the Arguments section of the brief but rather is directed to the Summary of the Claimed Subject Matter section of the brief.

(3) Appellant is required to comply with provisions of 37 CFR 41.37(c). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 41.37(c) within ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication. Extensions of time may be granted under 37 CFR 1.136. Note that future briefs that fail to comply with the requirements will not be entered and no new time period will be set.

If applicant has any question about how to comply he is encouraged to contact the examiner as listed below for assistance in this matter.

(4) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.

/Stephen M. Johnson/
Primary Examiner, Art Unit 3641

SMJ
June 29, 2008